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{BY HAND}

Ms. Mary L. Cottrell

Secretary

Department of Telecommunications and Energy

1 South Station Fl 2

Boston MA 02110

RE: Written Comments on Proposed Regulations 220 C.M.R. §§ 15.00 et seq, "Accelerated Docket for Disputes Involving Competing Telecommunications Carriers" (Regulations)

Ref: D.T.E. Docket 00-39, 5 June 2000, Order Instituting Rulemaking

Dear Ms. Cottrell,

1. My review of the subject Regulations--as an individual member of the Town of Lexington's Communications Advisory Committee and not necessarily representing either the full Committee or the Town of Lexington--raised the following comments. (All references are to the attachment to the above-cited reference.)

a. § 15.02: Are cable-TV licensees considered a "Telecommunications carrier"? I would hope they are and if not already included by other definitions of that term, I would want them to be explicitly included in this Section.

b. § 15.03 (2): Shouldn't a copy of that request have to be provided contemporaneously to the other party(ies) to the complaint? (§ 15.03 (3) does require that action if it is the respondent in a formal-complaint who is seeking inclusion on the Accelerated Docket.)

c. § 15.03 (5) (b) & (c): These seem to be the only places where a time period is in business days. I recommend all time periods in the Regulations be explicitly in either calendar or business days, but not in an unqualified "days"--and preferably all in one or the other.

d. § 15.03 (5) (c): The last sentence talks to the "Department" making an initial assessment, but elsewhere it's the "Department staff". As it appears that, except for the Commission's actions, everything is done by the "Department staff", I recommend the terminology be consistent throughout the Regulations.

e. § 15.03 (6): Shouldn't the complainant have to contemporaneously provide a copy of the complaint and the letter to the other party(ies)? Also, without knowing the legal requirements of a "complaint," it would appear that it would include--to a great degree--information already required to be in the "request for inclusion" per § 15.03 (4). It would seem there should be explicit direction to reference, rather than repeat, previously submitted material that has been made available to the Department and the other party(ies).

f. § 15.04 (2) (b): It wasn't clear why the factor of advancing competition should be included.

g. § 15.04 (3): This wording would appear to give one party unwarranted "control" over whether a matter deserving of expedited review can be given that review. If that one party refuses to attempt in good faith to resolve the dispute for the minimum 10-day period, this subsection would preclude the "aggrieved" party from getting an expedited review. That seems totally inappropriate.

h. § 15.04 (5): Here the determination must be made within the 20-day period, but § 15.03 (5) stipulated just that the mediation would be during the 20-day period--although § 15.03 (5) (c) calls for an initial assessment within six business days. Unless it's clear that no other required or optional activity might extent close to the end of a 20-day period, it would seem that the Department's decision might need to be after the allowed mediation period.

i. § 15.05 (4): The last sentence requires each party to submit separate statements on the issues to which they cannot agree by the 7-day deadline (presumably, but ambiguously, the filing deadline), but it isn't clear that the filer will necessarily know in time to do that what the respondent will say in their filing. (At least § 15.07 (3) has required a presumably earlier dialogue on that matter before the submittal requirement in § 15.07 (5).)

j. § 15.05 (5): The "pre-initial-status-conference filing" appears to be an indefinite reference. (Perhaps that's the 2-days-prior filing?) Recommend that many-times-used phrase be explicitly defined at its first use--perhaps by a reference to another Section(s).

k. § 15.06 (3): In the 5th line, to be consistent and unambiguous, should "at the status conference" be "at the initial status conference"?

l. § 15.07 (3): As noted above for § 15.05 (4), for the parties to be sufficiently informed of the other party(ies) position(s), the required conferring must be sufficiently before the associated filing deadline; therefore, having just "Prior to the initial status conference" appears inadequate to ensure that conferring serves the intended purpose. Recommend the requirement include a "not less than" some-number-of-days condition.

m. § 15.08 (1): It was difficult to understand why the hearing "window" is the 31-34 days--especially as that could include a weekend if calendar days are implied. (See above on § 15.03 (5) (b) & (c).) With regard to both why it can't (practically) be earlier or that just a 4-day "window" is achievable, I recommend that a time-line (PERT-style) diagram be included to reflect the "window" for each activity in the process.

n. § 15.08 (3): The last sentence addresses objections that will be heard at the beginning of the hearing. To preclude unfairly penalizing the party who may have to refute potentially frivolous matters raised by the other party(ies), it would seem that the time spent in all objections should be explicitly excluded from being deducted from the

responding party's time allotment. (While including the time spent objecting would be deducted per § 15.08 (2), 2nd sentence, excluding it would appear to be a consistent parallel to the intent of § 15.08 (2), 3rd sentence.)

o. § 15.08 (5): While the last of the three page-length limitations at least has the qualifier "typewritten," I would recommend that all three (the 20-page, the 10-page, and the 2-page) be better prescribed (e.g., size of page, font size, margins, etc.) to ensure both readability and equity.

p. § 15.09: I was surprised by the last sentence's restriction on appealing to a court of law if not appealed to the Commission. Is that really an enforceable restriction?

q. § 15.10: While I appreciate that the undefined "where appropriate" gives the Department great flexibility, I believe it better serves public policy if there were language to make clear that granting exceptions would be appropriate only when it served some explicitly cited, broad, non-exclusive, boundary conditions that can stand the test of public review--as was done in § 15.04(2). There should not be even the appearance that the granting of exceptions might be allowed on a biased basis.

2. These comments are provided for consideration by the Department Staff. As requested, enclosed is a file of this letter.

3. As I plan to attend the public hearing on 7 July 2000 regarding the proposed regulations, I would appreciate being advised directly of any change to the date, time, or location of that hearing.

Sincerely,

Member, Lexington Communications Advisory Committee

Enclosure

3.5" Diskette with this letter in WordPerfect

cc: Jane Gharibian, Chair, Lexington Communications Advisory Committee (wo Encl)

Lexington Board of Selectmen (wo Encl)